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CHRONO

OCA 86-0751/1
13 March 1986

MEMORANDUM FOR: Director, Office of Personnel

25X1

FROM: [redacted]
Legislation Division
Office of Congressional Affairs

SUBJECT: OPM Draft Bill to Reform Civil Service Retirement System

1. Attached at Tab A for your review and comment is a draft bill prepared by OPM to reform the Civil Service Retirement System. The bill, which applies to employees hired before 1 January 1984, would do the following: 1) increase employee contribution to retirement from 7% to 9%; 2) compute retirement benefits based on the highest earnings over a five-year period rather than the current three-year period; 3) maintain early retirement at age 55, but reduce retirement benefits by 2% for each year an individual retired before 62; 4) limit COLAs; and 5) make several changes in the eligibility rules for surviving spouses, former spouses and individuals having an insurable interest. The proposal is basically a warmed over version of the OPM proposal sent to us last year, except that this year's version would not apply to CIARDS.

2. You will recall that in our comments last year on the bill, the Director sent a letter to OMB objecting to the section of the draft bill that would reduce the annuity for CIARDS participants who retired at age 50 (Tab B). We were successful in convincing OMB to remove that section. The Director then attempted to convince OMB that the bill should not impose early retirement penalties on the rest of the Agency work force (Tab C). We were not successful in this appeal. The draft bill was then sent to the Hill, but it did not receive a favorable reception.

3. As you know, the Administration has already attempted to sell the bill again this year and once more we expect they will be rebuffed by House Post Office and Civil Service Committee.

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WHEN SEPARATED FROM ATTACHMENTS

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4. We would appreciate your views on how to respond to the OMB request for our comments on the OPM proposal. Given the bill's poor prospects and the fact that we were rebuffed last year, there is an argument for not making a big push this year to obtain special consideration for our non-CIARDS employees. However, I am inclined not to give up on this issue. At the very least, we want to preserve our original position on this matter. In order that we may prepare a timely response, I would appreciate receiving your views no later than 17 March 1986.

25X1 [redacted]

Attachments as
stated

Distribution:
Original - Addressee w/attachments
1 - D/OCA "
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1 - OCA/LEG/Subject: Retirement
1 - DMP/Signer "
25X1 OCA/LEG:[redacted]pap (13 March 1986)

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 11, 1986

SPECIAL

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer -

Department of Defense
Department of State
Central Intelligence Agency
United States Postal Service
District of Columbia

SUBJECT: Office of Personnel Management Advance draft bill, "To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes."

This proposal would implement the President's Fiscal Year 1987 Budget recommendations and requires expedited handling.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than WEDNESDAY, MARCH 19, 1986.

Questions should be referred to **Hilda Schreiber** (395-7362) the legislative analyst in this office.

Naomi R Sweeney
Naomi R. Sweeney for
Assistant Director for
Legislative Reference

Enclosures

SPECIAL

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

Office of the Director

Rec'd LRD
12 noon
3-11-86

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Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

The Office of Personnel Management submits herewith a legislative proposal, "To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes." This proposal would implement recommendations contained in the President's budget for fiscal year 1987. We request that you refer this proposal to the appropriate committee for early consideration.

At present, the Civil Service Retirement System is extremely expensive, having a dynamic normal cost of nearly 35 percent of payroll, which is considerably more than private sector pension plans cost. Furthermore, the System has a massive unfunded liability of $542.1 billion as of September 30, 1984--more than a half trillion dollars of debt. Even ignoring the unfunded liability resulting from future pay raises and future cost-of-living adjustments, the unfunded liability (the so-called "static" unfunded liability) was $190.6 billion in 1984.

In order to deal with the excessive cost of the Civil Service Retirement System, and its huge debt, and in order to bring its benefits more into line with private sector pension plans, this draft bill would make several changes in the System, while preserving an adequate level of retirement income for Federal employees.

Under the proposal, the determination of an individual's average pay for the purpose of computing retirement benefits would use the highest earnings over a five-year period, rather than three years as at present. This change would not take effect until October 1, 1989, and would not affect anyone eligible to retire by that date.

Beginning in 1987, employee and agency contributions to the System would be increased from 7 percent each to 9 percent each. In addition, the proposal would require the United States Postal Service and the District of Columbia government to contribute to the Civil Service Retirement and Disability Fund an additional 2 percent of basic pay each year until their payments, when combined with employee deductions, are sufficient to cover the dynamic normal cost of the Retirement System.

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Although no change would be made in the age at which individuals may retire, a reduction in benefits for retirement before age 62 would be phased into the program. Currently, unreduced benefits are available to individuals with thirty years of service who retire as early as age 55. Under the proposal, benefits would be reduced by 2 percent a year for each year the individual is under age 62 at the time of retirement. This change would not affect anyone who reaches age 55 by October 1, 1986.

Several changes would be made with respect to cost-of-living adjustments (COLA's) in Civil Service Retirement annuities. First, the adjustment scheduled for December 1986 would not take effect. Then, beginning with the December 1987 COLA, adjustments would be based on the percentage change in the Consumer Price Index (CPI) less 2 percentage points. With the exception of the elimination of the December 1986 COLA, these COLA changes are not intended to affect military retirees, and a provision in the bill would exclude military retired and retainer pay from application of the changes in the COLA methodology in future years.

The proposal would also change the method of computing benefits for employees who perform part-time service, so that benefits would be proportional to the service actually performed. The change would apply only to service performed on or after October 1, 1986, and would not affect annuity eligibility.

Eligibility rules for surviving spouses, former spouses, and individuals named as having an insurable interest in the employee or Member would be changed to parallel more closely the treatment of similarly situated survivor beneficiaries under the Social Security System. Benefits would not be payable for any month during any portion of which the widow, widower, former spouse, or insurable interest designee has not reached age 60, has not attained age 50 if disabled, or does not have in his or her care a surviving child of the employee, Member, or annuitant.

A further change would be the phasing out of survivor benefits for post-secondary students. This change would be consistent with one made in the Social Security System several years ago. Also in an effort to be consistent with Social Security, the proposal would revise commencing dates and termination dates of annuities so that benefits would be payable only for full months.

It should be noted that, except for the reduction in annuities for early retirement, the changes proposed here can be effected administratively for the Foreign Service and Central Intelligence Agency retirement systems.

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Employees of the government of the District of Columbia hired on or after October 1, 1986, would be excluded from the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program, and the Federal Employees Health Benefits Program. In view of the District's authority under home rule to manage its affairs with less dependence on the Federal Government, it is no longer appropriate for District employees to be carried under the benefit programs for Federal employees.

We estimate that the proposed changes in Civil Service Retirement would reduce the budget deficit (i.e., increase receipts or reduce outlays) by the following amounts:

Fiscal Year 1987	$ 1,604 million
Fiscal Year 1988	2,571 million
Fiscal Year 1989	3,179 million
Fiscal Year 1990	3,842 million
Fiscal Year 1991	4,411 million
1987-91 total	$15,607 million

This proposal implements a key fiscal year 1987 Budget recommendation designed to reform the high costs and generous benefits of the current System.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely,

Constance Horner
Director

Enclosures

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STATEMENT OF PURPOSE AND JUSTIFICATION

To accompany a draft bill

"To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes."

At present, the Civil Service Retirement System is extremely expensive, having a dynamic normal cost of nearly 35 percent of payroll, which is considerably more than private sector pension plans cost. Furthermore, the System has a massive unfunded liability of $542.1 billion as of September 30, 1984--more than a half trillion dollars in debt. Even ignoring the unfunded liability resulting from future pay raises and future cost-of-living adjustments, the unfunded liability (the so-called "static" unfunded liability) was $190.6 billion in 1984.

In order to deal with the excessive cost of the Civil Service Retirement System, and its huge debt, and in order to bring its benefits more into line with private sector pension plans, the draft bill would make several changes in the System, while preserving an adequate level of retirement income for Federal employees.

"High-Five-Year" Average Salary

Since 1969, Civil Service annuities have been computed based on each employee's highest average annual earnings during 3 consecutive years. Before 1969, a " high-five-year" rather than a "high-three-year" average salary was used. This bill would return to the "high-five-year" salary. This change would not apply to anyone who is eligible to retire on or before October 1, 1989, when the provision would become effective.

Increase in Retirement Contributions

The last increase in retirement contribution rates took effect in 1970. In view of the level of benefits provided by the System, this bill would require the long overdue and entirely warranted increase in agency and employee contributions of two percentage points each beginning in January 1987.

Reduction in Annuities Payable Before Age 62

Currently, employees may retire involuntarily at age 55 after 30 years of service, at age 60 after 20 years of service, or at age 62 after 5 years of service. This bill would not change the ages at which employees become eligible to retire, but it would phase in over 4 years a reduction in

benefits for individuals who retire before age 62. For those who are age 54 on October 1, 1986, the reduction would be 0.5 percent for each year they are under age 62 at the time of retirement. This factor would rise gradually with respect to younger individuals until it reached 2 percent for individuals who are 51 years old or younger on October 1, 1986. Those who are 55 or older on October 1, 1986, would have no reduction in their annuities. The reduction would not apply to law enforcement officers, firefighters, or other special groups. The reduction would encourage individuals to work beyond the date of their earliest retirement eligibility and would require those who do retire early to bear a more reasonable portion of the high cost of early retirements.

Limit on Cost-of-Living Adjusments

Under 5 U.S.C. 8340, an annual cost-of-living adjustment (COLA) is ordinarily effective on December 1 of each year (and is first paid in the annuity checks issued at the beginning of January), based on the rise in the Consumer Price Index (CPI) between the third quarter of that calendar year and the third quarter of the preceding calendar year. Under this proposal, the adjustment scheduled for December 1986 would not take effect. Then, beginning with the December 1987 adjustment, the COLA amount each year would be the CPI change minus two percentage points.

These proposed changes are designed to bring Federal annuitants into closer alignment with other retired people who typically receive full regular COLA's on only their Social Security benefits, and to remove the disincentive for retirement-eligible Federal employees to continue working as retirement benefits rise at a faster rate than pay.

These COLA changes would also apply to certain other retirement systems for Government employees, such as the Foreign Service Retirement System, under which COLA's are linked to Civil Service Retirement COLA's. Except for the elimination of the December 1986 COLA, these changes would <u>not</u> apply to military retired and retainer pay COLA's.

Computation of Annuities for Part-Time Employment

Currently, most employees covered by the Civil Service Retirement System receive full service credit for their part-time service, while having their salaries prorated in the computation of their annuities. Those who work part-time for a whole career receive an appropriately smaller annuity. However, if at the end of a long part-time career an employee changes to a full-time schedule for his last

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three years, the increase in the average salary produces an annuity equal to that received by an employee who has worked full-time for an entire career. This bill would eliminate that possibility of abuse by amending the law to provide that, for part-time service performed after September 30, 1986, the annuity would be computed under the appropriate formula multiplied by a fraction which expresses the ratio between the actual service and a full-time tour of duty for the employee's career. Thus, an employee with ten years of service performed on a half-time basis after that date and ten years of full-time service would have his benefit as computed under the appropriate formula multiplied by three-fourths to determine his annuity. In addition, to the extent that part-time service is involved, the average pay will be determined on the basis of the full annualized rate of pay for the individual's position. Computations involving disability retirement or the limitation on initial annuity payments of 80 percent of average pay would continue to use prorated salary rates that bear the same relationship to the full annual salary of the employee's position as the employee's part-time schedule bears to a full-time schedule. There would be no effect on the benefits of full-time employees, or employees who work a consistent part-time tour. Employees of the Department of Medicine and Surgery of the Veterans Administration are already subject to revised computation provisions. In order to maintain consistency, service performed by individuals from that organization after September 30, 1986, will be subject to the Government-wide provision. The Office of Personnel Management will be authorized to develop an appropriate method for computing benefits if an individual has performed part-time service before and after the date of the change in treatment of part-time service.

Survivor Benefits for Widows, Widowers, and Insurable Interest Designees

Benefits are currently payable to widows or widowers of deceased employees, Members, or annuitants, or the persons named as having an insurable interest in deceased annuitants, generally without regard to age, health, or family status. This differs markedly from the private sector where individuals are covered by Social Security under which such factors are significant in determining eligibility for survivor benefits. Accordingly, this proposal would bring the Retirement System more nearly into line with Social Security by providing that survivor benefits would not be payable for any month during any portion of which the widow, widower, or insurable interest designee has not attained age 60, has not reached age 50 if disabled, or does not have in his or her care a surviving child of the employee, Member, or annuitant.

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Survivor Benefits for Adult Students

Survivor benefits which are now payable to young adults between ages 18 and 22 who are full-time students in post-secondary schools would be eliminated by the proposal. These changes are designed to eliminate from the retirement program the responsibility for providing post-secondary educational assistance, and are prompted by similar changes made to the Social Security program by the Omnibus Budget Reconciliation Act of 1981. Future recipients would be allowed to continue benefits beyond age 18 only until the earlier of completion of secondary school or attainment of age 19. Current recipients would be permitted to continue under the program until they reach age 22 or leave school, whichever comes first.

Commencing and Termination Dates of Annuities

The proposal incorporates technical changes in the provisions governing commencement and termination of annuities so that benefits would be payable for full months only. Thus, the complex processing of lump-sum payments for partial months would be eliminated and the Retirement System would be made more consistent with the Social Security System.

Exclusion of D.C. Government Employees

Currently, employees of the government of the District of Columbia are covered by the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program, and the Federal Employees Health Benefits Program. Consistent with the concept of home rule for the District of Columbia, individuals hired by the government of the District of Columbia after September 30, 1986, would be excluded from the Federal retirement, life insurance, and health benefits programs.

Contribution Rates for Postal Service and D.C. Government

The rates at which agencies contribute to the Retirement Fund currently parallel the rates paid by employees. This is true even for purportedly financially self-sufficient entities such as the Postal Service and the D.C. government. Under this proposal, these two entities would be charged the difference between the dynamic normal cost of the Retirement System (as determined by the Board of Actuaries) and the employee contribution rate, thus ending a substantial, hidden Federal subsidy to these entities. This change would be phased in by adding 2 percent each year to the agency contribution rate until the correct contribution rate is reached.

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A BILL

To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Service Retirement Reform Act of 1986".

Sec. 2. Chapter 83 of title 5, United States Code, is amended--

(1) in section 8331--

(A) by repealing paragraph (1)(G);

(B) by repealing paragraph (1)(iv);

(C) in paragraph (4) by striking out "3" both times it appears and inserting in lieu thereof "5";

(D) in paragraph (7) by striking out ", the government of the District of Columbia,"; and

(E) in paragraph (20)--

(i) in subparagraph (B) by inserting "and" after the semi-colon at the end thereof;

(ii) in subparagraph (C) by striking out "and" after the semicolon at the end thereof; and

(iii) by repealing subparagraph (D);

(2) by repealing section 8332(b)(9);

(3) in section 8334--

(A) in subsection (a)(1) by amending the first sentence to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, a Congressional

employee, a Member, a law enforcement officer, a firefighter, a bankruptcy judge, and a judge of the United States Court of Military Appeals, the appropriate percentage specified in subsection (c) of this section."; and

(B) by amending subsection (c) to read as follows:

"(c) Deductions from the basic pay of each employee, Congressional employee, Member, law enforcement officer, firefighter, bankruptcy judge, or judge of the United States Court of Military Appeals shall be made in accordance with the following table. Each individual credited with civilian service after July 31, 1920, for which retirement deductions or deposits have not been made, may deposit with interest an amount equal to the following percentages of his basic pay received for that service:

	"Percentage of basic pay	Service period
"Employee-------	2 1/2	----------August 1, 1920, to June 30, 1926.
	3 1/2	----------July 1, 1926, to June 30, 1942.
	5	------------July 1, 1942, to June 30, 1948.
	6	------------July 1, 1948, to October 31, 1956.
	6 1/2	----------November 1, 1956, to December 31, 1969.
	7	------------January 1, 1970, to December 31, 1986.
	9	------------After December 31, 1986.
"Member or employee for Congressional employee service-------	2 1/2	----------August 1, 1920, to June 30, 1926.
	3 1/2	----------July 1, 1926, to June 30, 1942.
	5	------------July 1, 1942, to June 30, 1948.
	6	------------July 1, 1948, to October 31, 1956.
	6 1/2	----------November 1, 1956, to December 31, 1969.

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	7 1/2	January 1, 1970, to December 31, 1986.
	9 1/2	After December 31, 1986.
"Member for Member service	2 1/2	August 1, 1920, to June 30, 1926.
	3 1/2	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to August 1, 1946.
	6	August 2, 1946, to October 31, 1956
	7 1/2	November 1, 1956, to December 31, 1969.
	8	January 1, 1970, to December 31, 1986.
	10	After December 31, 1986.
"Law enforcement officer for law enforcement service and firefighter for firefighter service	2 1/2	August 1, 1920, to June 30, 1926.
	3 1/2	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6 1/2	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1974.
	7 1/2	January 1, 1975, to December 31, 1986.
	9 1/2	After December 31, 1986.
"Bankruptcy judge	2 1/2	August 1, 1920, to June 30, 1926.
	3 1/2	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6 1/2	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1986.
	9	After December 31, 1986.

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"Judge of the United States Court of Military Appeals for service as a judge of that court	8	September 23, 1983, to December 31, 1986.
	10	After December 31, 1986.";

(4) in section 8339--

(A) in subsection (h) by redesignating that subsection as subsection (h)(1) and by adding at the end thereof the following:

"(2) The annuity computed under subsection (a) of this section for an individual retiring under section 8336(a), (b), (d), (f), or (h) of this title who is under age 62 on the date of separation is reduced as follows:

"Age of employee on October 1, 1986	Percentage reduction per year or part thereof, not in excess of 7 years, under age 62
55 or over	0.0
54	0.5
53	1.0
52	1.5
51 or under	2.0";

(B) in subsection (n) by striking out "after";

(C) by adding at the end thereof the following new subsection:

"(p) Notwithstanding section 8331(4) of this title, or any other subsection of this section, when computing the annuity of

an employee under this section whose service includes service that was performed on less than a full-time basis, the average pay, to the extent it includes pay for service performed on less than a full-time basis, shall be determined by using the annual rate of basic pay that would be payable for full-time service in the position, and the benefit so computed shall then be multiplied by a fraction that expresses the ratio between the employee's actual service, as determined by prorating the employee's total service to reflect the service that was performed on less than a full-time basis, and the total service that would be creditable for the employee if all of the service had been performed on a full-time basis. The resulting amount shall be the annuity of the employee. This subsection is not applicable to computations made under subsection (f) or (g) of this section.";

(5) in section 8340--

(A) by amending subsection (b) to read as follows:

"(b) Except as provided in subsections (c) and (g) of this section, effective December 1 of each year, each annuity having a commencing date not later than such December 1 shall be increased by the percent change in the price index for the base quarter of that year over the price index for the base quarter of the preceding year, adjusted to the nearest 1/10 of 1 percent, less two percentage points."; and

(B) in subsection (c)--

(i) in paragraph (1)(A) by striking out "percent change" and inserting in lieu thereof "percentage adjustment"; and

(ii) in paragraph (3) by inserting after "this section" each time it appears the following: ", without regard to subsection (g) of this section,";

(6) in section 8341--

(A) in subsection (a)(4)--

(i) by amending subparagraph (C) to read as follows:

"(C) such unmarried dependent child between 18 and 19 years of age who is a full-time elementary or secondary school student.";

(ii) by amending the next to the last sentence to read as follows:

"For the purpose of this paragraph and subsection (e) of this section, the benefits of a child who is entitled solely under subparagraph (C) of this paragraph to benefits under this section terminate at the end of the month prior to the month in which he ceases to be a full-time elementary or secondary school student, or the end of the month prior to the month in which he attains age 19, whichever is earlier."; and

(iii) in the last sentence by striking out "5" and inserting in lieu thereof "4";

(B) in subsection (b)--

(i) in paragraph (1) by striking out "section 8339(a)-(i) and (n)" and inserting in lieu thereof "section 8339(a)-(i), (n), and (p)"; and

(ii) in paragraph (3) by striking out "day after" and inserting in lieu thereof "first day of the month in which";

(C) in subsection (c) by striking out "day after" and inserting in lieu thereof "first day of the month in which";

(D) in subsection (d)--

(i) by striking out "and (n)" and inserting in lieu thereof "(n), and (p)"; and

(ii) by striking out "day after" and inserting thereof "first day of the month after";

(E) in subsection (e)(3)--

(i) in the first sentence by striking out "under this subchapter or under the Act of May 29, 1930, as amended from and after February 28, 1948, commences on the day after the employee or Member dies, or commences or resumes on the first day of the month in which the child later becomes or again becomes a student as described by subsection (a)(3)" and inserting in lieu thereof "commences on the first day of the month after the employee or Member dies, on the first day of the month in which the retired employee

or Member dies, or commences or resumes on the first day of the month after the month in which the child later becomes or again becomes a student as described in subsection (a)(4)"; and

(ii) in subparagraph (C) by striking out "22" and inserting in lieu thereof "19";

(F) in subsection (f)(1) by striking out "day after" and inserting in lieu thereof "first day of the month after";

(G) in subsection (g) by striking out "day" and inserting in lieu thereof "first day of the month after"; and

(H) by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provision of law, no benefits may be paid under this section to any widow, widower, former spouse, or survivor named under section 8339(k)(1) of this title, of any employee, Member, or annuitant, for any month during any portion of which the widow, widower, former spouse, or survivor named under section 8339(k)(1) of this title--

"(A) has not attained age 60;

"(B) if disabled (as defined in section 223(d) of the Social Security Act of 1935, as amended), has not attained age 50; or

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"(C) does not have in his or her care a child (as defined in subsection (a)(4) of this section) of the employee, Member, or annuitant.

"(2) Benefits paid under this section after a period in which benefits were not paid by reason of this subsection are computed as though that period of non-payment had not occurred.";

(7) in section 8345--

(A) in subsection (b)--

(i) in paragraph (2)(A) by striking out "and" at the end thereof;

(ii) in paragraph (2)(B) by inserting "and" after the semicolon;

(iii) by inserting after paragraph (2)(B) the following new subparagraph:

"(C) an employee or Member retiring in the first 3 days of any month;"; and

(B) by amending subsection (c) to read as follows:

"(c) An annuity payable from the Fund terminates on the last day of the month before death or other terminating event provided by this subchapter occurs.";

(8) by repealing section 8347(h); and

(9) in section 8348--

(A) in subsection (h)(1) by inserting before "authorizes" the following: ", prior to October 1, 1986,"; and

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(B) by adding at the end thereof the following new subsection:

"(j) The United States Postal Service and the District of Columbia government shall each contribute to the Fund a sum to be determined by applying to the total basic pay (as defined in section 8331(3) of this title) paid to its employees who are covered by the Civil Service Retirement System the percentage rate that is the excess of the total normal cost percentage rate for the System, as most recently determined by the Board of Actuaries of the Civil Service Retirement System, and including the effects of future increases in pay and future cost-of-living adjustments, over the employee deduction rate specified in section 8334(a) of this title. If such rate determined by the Board for any fiscal year differs from the rate used in the previous fiscal year, such new rate may not take effect under this subsection until the beginning of the fiscal year which follows that determination by more than one year.".

Sec. 3. Chapter 87 of title 5, United States Code, is amended--

(1) by repealing section 8701(a)(5); and

(2) in section 8716(b)--

(A) in paragraph (1) by inserting "or" at the end thereof;

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

Sec. 4. Chapter 89 of title 5, United States Code, is amended--

(1) in section 8901--

(A) by repealing paragraph (1)(E); and

(B) in paragraph (2) by striking out "and the government of the District of Columbia"; and

(2) in section 8913(b)--

(A) in paragraph (1) by inserting "or" at the end thereof;

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

Sec. 5. Section 4109(b) of title 38, United States Code, is repealed.

Sec. 6. Section 4(b)(4) of Public Law 98-615 (98 Stat. 3195, 3206) is amended by striking out "and (n)" and inserting in lieu thereof ", (n), and (p)".

Sec. 7. (a) Except as otherwise provided by this section, the amendments made by section 2 of this Act shall take effect on the date of enactment of this Act.

(b) The amendments made by section 2(1)(C) of this Act shall take effect on October 1, 1989, and shall apply only to individuals who first become eligible for immediate retirement under chapter 83 of title 5, United States Code, on or after that date.

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(c) The amendments made by sections 2(4)(C) and 5 of this Act shall be effective with regard to service performed on or after October 1, 1986. The Office of Personnel Management is authorized to develop a method for computing appropriate benefits when an individual has part-time service before October 1, 1986, and part-time service on or after that date.

(d) Notwithstanding section 8340 of title 5, United States Code, as amended by section 2(5) of this Act, no cost-of-living adjustment of annuities may take effect during fiscal year 1987.

(e) Notwithstanding the amendments made by sections 2(6)(A) and 2(6)(E) of this Act, an annuity being paid on the date of enactment of this Act to an individual described in section 8341(a)(4)(C) of this title, as that section existed prior to the enactment of this Act, who was attending school on that date, shall be continued without regard to those amendments until the individual reaches age 22 or first ceases to be a student.

(f) No annuity being paid on the date of enactment of this Act may be reduced below the rate in effect on that date by reason of the enactment of section 8341(j) of title 5, United States Code, as added by section 2(6)(H) of this Act.

(g)(1) The amendments made by sections 2(1)(A)-(B), 2(1)(D)-(E), 2(2), 2(8), 3, and 4 of this Act shall take effect on October 1, 1986, and shall apply to service performed on or after that date.

(2) Notwithstanding paragraph (1) of this subsection, in the case of any individual who is employed by the government of the

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District of Columbia on September 30, 1986, and whose employment is subject to subchapter III of chapter 83, chapter 87, or chapter 89 of title 5, United States Code, the provisions of such subchapter or chapters shall continue to apply as if the amendments enumerated in paragraph (1) of this subsection had not been enacted so long as such individual is continuously employed by the government of the District of Columbia. For the purpose of this paragraph, an individual who leaves such employment with the government of the District of Columbia for 365 consecutive days or less, or an individual who leaves such employment to perform full-time military service (including service in the National Guard or Reserve Forces of the United States) for a period exceeding 365 consecutive days and who exercises reemployment rights under chapter 43 of title 38, United States Code, shall be considered to be continuously employed by the government of the District of Columbia during the break in service, regardless of whether such break in service begins before, on, or after September 30, 1986.

(h) Notwithstanding the amendments made to section 8340(b) of title 5, United States Code, by section 2(5) of this Act, the amount of any adjustment in military retired and retainer pay that is determined under section 1401a of title 10, United States Code, by reference to section 8340(b) shall be determined as if such amendments had not been enacted.

(i) Notwithstanding the provisions of section 8348(j) of title 5, United States Code, as added by section 2(9)(B) of this

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Act, in the fiscal year beginning on October 1, 1986, the United States Postal Service and the District of Columbia government shall each contribute to the Fund a sum to be determined by applying to the total basic pay (as defined in section 8331(3) of title 5, United States Code) paid to its employees the employee deduction rate specified in section 8334(a) of title 5, United States Code, plus 2 percent. In each succeeding fiscal year, the rate shall be increased by an additional 2 percent, or such lesser amount as is necessary, until it equals the rate determined annually by the Office of Personnel Management under such section 8348(j), after which it shall be determined in accordance with such section 8348(j).

SECTION-BY-SECTION ANALYSIS DRAFT

To accompany a draft bill

"To amend title 5, United States Code, to reform the Civil Service Retirement System, and for other purposes."

The first section titles the bill as the "Civil Service Retirement Reform Act of 1986."

Section 2 contains the various amendments to chapter 83 of title 5, United States Code, designed to curtail unnecessary and excessive expenditures for Civil Service Retirement benefits and to bring the program closer into line with private sector practices.

Paragraph (1) of section 2 amends section 8331(1)(G), (1)(iv), (7), and (20) to exclude from the Civil Service Retirement System individuals employed by the District of Columbia government who are covered by that System. (However, section 7(g)(2) of the Act continues coverage for D.C. government employees who are covered on September 30, 1986.) Paragraph (1) also amends section 8331(4) to base average pay (which is used as the base for computing annuities) on the highest earnings during five consecutive years of creditable service rather than three.

Paragraph (2) of section 2 amends section 8332(b)(9) to eliminate retirement credit for future service performed for the District of Columbia government. (Employees of the D.C. government who are covered by the Civil Service Retirement System on September 30, 1986, would continue to receive credit for future service in accordance with section 7(g)(2) of the Act.)

Paragraph (3) of section 2 amends section 8334 by amending subsection (a) to link employee deductions and agency contributions to the percentages specified in subsection (c), and by amending subsection (c) to increase the percentage rates for employee deductions and agency contributions by 2 percent, effective in January of 1987.

Paragraph (4) of section 2 amends section 8339 by amending subsection (h) to provide for a reduction in retirement benefits for employees (other than law enforcement officers, firefighters, and air traffic controllers) who retire before age 62. The reduction will eventually be 2 percent for each

year or part of a year the retiree is under age 62, not exceeding seven years, but will be phased in through increases of 1/2 percent per year. Individuals who have attained age 55 by October 1, 1986, will not be subject to the reduction. Section 8339 is also amended, in subsection (n) by striking out an extra word, and by adding a new subsection (p) which provides, notwithstanding section 8331(4) or any other subsection of section 8339, for computing the annuity of an individual who performs service on less than a full-time basis by multiplying the benefit computed under the regularly applicable formula by a fraction that represents the ratio between the employee's actual service, as determined by prorating total service to reflect the service that was performed on less than a full-time basis, and full-time service, and, to the extent that part-time service is involved, by deeming the annual rate of basic pay that would be payable for full-time service in the position as the rate of basic pay. It also provides that this new subsection is not applicable to computations involving disability retirement or the 80 percent limitation on initial annuity payments.

Paragraph (5) of section 2 amends section 8340 by amending subsection (b) to base cost-of-living adjustments (COLA's) on the change in the Consumer Price Index (CPI) minus two percentage points, and by amending subsection (c) to ensure that the prorated initial COLA is based on the percentage adjustment as computed under subsection (b) rather than on just the CPI change. In addition, subsection (c) is amended to expressly except the computation of children's annuities from the limitation imposed by subsection (g) of section 8340.

Paragraph (6) of section 2 amends section 8341 by amending subsections (a) and (e) to eliminate survivor benefits for students in post-secondary schools and to terminate benefits for elementary or secondary school students at the end of the month prior to completion of school or at age 19, whichever comes first. It also corrects an erroneous citation and changes the permissible interim period between school years from 5 months to 4 months. In addition, it adds a new subsection (j) which provides that, notwithstanding any other provision of law, no benefits are payable to any widow, widower, or survivor named under section 8339(k)(1) of title 5, United States Code, of any employee, Member, or annuitant, for any month during any portion of which the widow, widower, or survivor has not attained age 60, has not attained age 50 if disabled as defined under section 223(d) of the Social Security Act of 1935, as amended, or is not

caring for a child of the employee, Member, or annuitant. It further provides that survivor benefits paid under section 8341 following a period of non-payment by reason of new subsection (j) are computed as though the period of non-payment had not occurred. It also amends subsections (b)(3), (c), and (f)(1) to provide for the commencement of certain survivor annuities on the first day of the month in which the death of a retired employee or Member occurs; by amending subsections (d), (f)(1), and (g) to provide for the commencement or restoration of certain survivor annuities on the first day of the month after the death of the employee or Member or other determinative event. In addition, subsections (b) and (d) are amended by adding references to new section 8339(p) to ensure that survivor benefits are based on appropriate computations when part-time service is involved.

Paragraph (7) of section 2 amends section 8345 by amending subsection (b)(2) to incorporate in title 5, United States Code, a commencing date provision enacted as a part of Public Law 97-377, and by revising subsection (c) to provide a uniform termination date for all annuities payable from the Civil Service Retirement and Disability Fund of the last day of the month before death or other terminating event occurs.

Paragraph (8) of section 2 amends section 8347 to delete subsection (h). This conforming amendment, which eliminates the authority to exclude temporary D.C. government employees from retirement coverage, is necessary to be consistent with the exclusion of new employees of the government of the District of Columbia from the Retirement System.

Paragraph (9) of section 2 amends section 8348 to bring to an end the requirement that the Postal Service pay for certain increases in the unfunded liability of the Retirement System. Assessments under subsection (h) of section 8348 will be limited to Postal Service pay increases prior to October 1, 1986. However, paragraph (9) then adds a new subsection (j) to section 8348, requiring the Postal Service and the D.C. government each to contribute to the Fund a sum to be determined by applying to the total basic pay, as defined in section 8331(3) of title 5, United States Code, paid to its employees covered by Civil Service Retirement, the percentage rate that is the excess of the total normal cost for the Retirement System, as most recently determined by the Board of Actuaries of the Civil Service Retirement System, including the effects of future cost-of-living adjustments and future increases in pay, over the employee deduction rate specified in section 8334(a) of title 5,

United States Code. If the normal cost for any fiscal year differs from the previous year's rate, the new rate is not used in computing the Postal Service or D.C. government payment until the beginning of the first fiscal year following the rate determination by more than a year.

Section 3 amends section 8701(a)(5) and 8716(b) of title 5, United States Code, to exclude from the Federal Employees' Group Life Insurance Program individuals who are employed by the government of the District of Columbia. (D.C. government employees who are covered by the Program on September 30, 1986, may continue coverage in accordance with section 6(g)(2) of the bill.)

Section 4 amends sections 8901 and 8913(b) of title 5, United States Code, to exclude from the Federal Employees Health Benefits Program individuals who are employed by the government of the District of Columbia. (D.C. government employees who are covered by the Program on September 30, 1986, may continue coverage in accordance with section 6(g)(2) of the bill.)

Section 5 repeals section 4109(b) of title 38, United States Code, relating to the special treatment of part-time service for employees of the Department of Medicine and Surgery of the Veterans Administration.

Section 6 amends section 4(b)(4) of Public Law 98-615 to apply the new provisions concerning part-time service to annuities of certain surviving former spouses.

Section 7 provides in subsection (a) that, except as otherwise provided by that section, the amendments made by section 2 of the Act shall take effect on the date of enactment.

Subsection (b) provides that the amendments made by section 2(1)(C) of the Act, concerning the "high-five" average pay, will take effect on October 1, 1989, and will apply only to individuals who first become eligible for immediate retirement under chapter 83 of title 5, United States Code, on or after that effective date.

Subsection (c) provides that the amendments made by sections 2(4)(C) and 5 of the Act, concerning part-time service, are effective only with regard to service performed on or after October 1, 1986. It also authorizes the Office of Personnel Management to develop an appropriate method of computing benefits for individuals who have part-time service before October 1, 1986, and part-time service on or after that date.

Subsection (d) provides that, notwithstanding section 8340 of title 5, United States Code, as amended by section 2(5) of the Act, during fiscal year 1986 no cost-of-living adjustment of annuities may take effect.

Subsection (e) provides, not withstanding the amendments made by sections 2(6)(A) and 2(6)(E) of the Act, for the continuation of benefits without regard to those amendments for any student receiving benefits on the date of enactment until the student reaches age 22 or first ceases to be a student.

Subsection (f) provides that no survivor annuities being paid on the date of enactment to a widow, widower, or an individual named as having an insurable interest may be reduced below the rate in effect on that date by reason of the enactment of new section 8341(j) of title 5, United States Code, by section 2(6)(H) of the Act.

Subsection (g) provides, in paragraph (1), that the amendments made by sections 2(1)(A)-(B), 2(1)(D)-(E), 2(2), 2(8), 3, and 4 of the Act, excluding the government of the District of Columbia from the Civil Service Retirement System, the Federal Employees' Group Life Insurance (FEGLI) Program, and the Federal Employees Health Benefits (FEHB) Program, shall take effect on October 1, 1986, and shall apply to service performed on or after that date. It also provides that, notwithstanding paragraph (1), an individual who is employed by the government of the District of Columbia on September 30, 1986, and who is covered by Civil Service Retirement, FEGLI, or FEHB, is to be treated as though the enumerated amendments had not been enacted as long as the individual remains continuously employed. Leaving employment with the government of the District of Columbia for 365 days or less, or leaving to perform full-time military service and exercising reemployment rights under chapter 43 of title 38, United States Code, does not constitute a disruption of the continuous service, irrespective of whether the break begins before, on, or after September 30, 1986.

Subsection (h) provides that, notwithstanding the amendments to section 8340(b) of title 5, United States Code, made by section 2(5) of the Act, the amount of any adjustment in military retired or retainer pay under section 1401a of title 10, United States Code, that is determined by reference to section 8340(b) is to be determined as if such amendments had not been enacted.

Subsection (i) provides for phasing in increased contributions to the Retirement Fund by the Postal Service and the D.C. government by stating that, notwithstanding the provisions of section 8348(j) of title 5, United States Code, as added by section 2(9)(B) of the Act, in fiscal year 1986 each of those entities shall contribute to the Fund a sum to be determined by applying to the total basic pay, as defined by section 8331(3) of title 5, United States Code, paid to its employees the employee deduction rate specified in section 8334(a) of title 5, United States Code, as amended by this Act, plus 2 percent. Then, in each succeeding fiscal year, the rate shall be increased by 2 percent, or such lesser amount as is necessary, until it equals the rate determined under the new section 8348(j).